

### **Amendments to the Specification**

Please replace the paragraph at page 7, beginning at line 26, under the heading SUMMARY OF THE INVENTION with the following:

According to the invention, there is provided a hybrid maize plant, designated as 39K40, produced by crossing two Pioneer Hi-Bred International, Inc. proprietary inbred maize lines GE535658 and GE516223. These lines, deposited with the American Type Culture Collection, (ATCC), Manassas, Virginia 20110, have accession number [[\_\_\_\_]] PTA-5505 for GE535658 and accession number [[\_\_\_\_]] PTA-5517 for GE516223. This invention thus relates to the hybrid seed 39K40, the hybrid plant produced from the seed, and variants, mutants and trivial modifications of hybrid 39K40. This invention also relates to methods for producing a maize plant containing in its genetic material one or more transgenes and to the transgenic maize plants produced by that method. This invention further relates to methods for producing maize lines derived from hybrid maize line 39K40 and to the maize lines derived by the use of those methods. This hybrid maize plant is characterized by a wide area of adaptation and good response to high yielding environments.

Please replace the paragraph at page 42, beginning at line 2, under the heading DEPOSITS with the following:

Applicant(s) have made a deposit of at least 2500 seeds of hybrid maize plant 39K40 and inbred parent plants GE535658 and GE516223 with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, VA 20110-2209 USA, ATCC Deposit Nos. [[\_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_]] PTA-5464, PTA-5505 and PTA-5517, respectively. The seeds deposited with the ATCC on [[\_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_]] September 9, 2003, September 12, 2003 and September 15, 2003, respectively were taken from the deposit maintained by Pioneer Hi-Bred International, Inc., 800 Capital Square, 400 Locust Street, Des Moines, Iowa 50309-2340, since prior to the filing date of this application. Access to this deposit will be available during the pendency of the application to the Commissioner of Patents and Trademarks and persons determined by the Commissioner to be entitled thereto upon request. Upon allowance of any claims in the application, the Applicant(s) will make available to the public, pursuant to 37 C.F.R. § 1.808, sample(s) of the deposit of at least 2500 seeds of

hybrid maize plant 39K40 and inbred parent plants GE535658 and GE516223 with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Virginia 20110-2209. This deposit of seed of hybrid maize plant 39K40 and inbred parent plants GE535658 and GE516223 will be maintained in the ATCC Depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it becomes nonviable during that period. Additionally, Applicant(s) have satisfied all the requirements of 37 C.F.R. §§ 1.801 - 1.809, including providing an indication of the viability of the sample upon deposit. Applicant(s) have no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant(s) do not waive any infringement of their rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.).